

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

EPIC GAMES, INC.,  
*Plaintiff, Counter-defendant,*  
v.  
APPLE INC.,  
*Defendant, Counterclaimant.*

Case No. 4:20-cv-05640-YGR-TSH

**RESPONSE TO APPLE'S OBJECTION  
TO SPECIAL MASTER RULING ON  
APPLE INC.'S PRODUCTION OF RE-  
REVIEWED DOCUMENTS**

The Honorable Thomas S. Hixson  
San Francisco Courthouse  
Courtroom E - 15th Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

Dear Magistrate Judge Hixson,

Pursuant to section 4 of the Joint Stipulation and Order Approving Privilege Review Protocol (Dkt. 1092) (the “Protocol”), Epic respectfully submits the following response to Apple’s Objection to a Special Master’s ruling (“Objection”), filed on April 21, 2025. (Dkt. 1471.) Epic responds to Apple’s Objection based on the limited information provided in Apple’s privilege log entry for the document.

Entry No. 7744 (PRIV-APL-EG\_00225225) is, according to Apple’s Objection, a draft webpage that was attached to an email thread, Entry No. 7743 (PRIV-APL-EG\_00225208). The subject of that cover email is “Re: FOR YOUR LEGAL REVIEW” referencing a European regulatory program and “Comments by Monday EOD. [Launch Tues 3/5]”, suggesting the initial email in that chain was, in fact, seeking legal advice. Apple in its Objection claims that “[t]he most recent-in-time email in the thread is an email from an Apple employee to two Apple in-house counsel” that “requests that counsel review the document[] and determine if [it] can be published”. (Dkt. 1471 at 2.) Apple omits from this description the fact that the top email was not only sent to the two in-house counsel, but also to Boris Wang, a former Apple business employee, copying no less than 14 additional business employees. (See Privilege Log Entry No. 7743.) The Special Master parsed this email chain and in the comments on Entry No. 7744 found that only the “email to Ling Lew beginning on bottom [sic] of page 1 and continuing to top of page 2” are privileged, whereas the rest of the top email—and the attachment thereto—are not privileged, presumably because they do not reflect a request for legal advice.<sup>1</sup> Entry No. 7743 has now been

<sup>1</sup> Apple’s privilege log appears to confusingly conflate Entry No. 7744 (the attachment) and Entry No. 7743 (the cover email), describing the attachment as an “[e]mail chain with redacted text reflecting legal advice from counsel

produced to Epic in redacted form on April 23, 2025, and while the chain contains many redactions, the last (top) email in the chain appears to be an update sent to two lawyers and the “team”, not a request for legal advice; in fact, that last-in-time email is almost entirely *unredacted*. Thus, it appears that Entry No. 7744 was not sent to solicit legal advice, and the Special Master was therefore correct in overruling Apple’s assertion of privilege over it.

DATED: April 23, 2025

CRAVATH, SWAINE & MOORE LLP  
By: /s/ Yonatan Even  
*Counsel for Plaintiff Epic Games, Inc.*

---

regarding foreign regulatory issues in the European Union, including DMA”, and leading the Special Master apparently to provide comments on the *cover email* (Entry No. 7743) in the row for the *attachment* (Entry No. 7744). See Exhibit A to the Even Declaration filed herewith.